

APR 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALEJANDRO GABRIEL ACEVES-  
LOPEZ,

Defendant - Appellant.

No. 08-10317

D.C. No. 2:08-CR-00323-DGC-1

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Arizona  
David G. Campbell, District Judge, Presiding

Submitted April 13, 2009<sup>\*\*</sup>

Before: GRABER, GOULD, and BEA, Circuit Judges.

Alejandro Gabriel Aceves-Lopez appeals the sentence imposed following his guilty plea to illegal reentry after deportation in violation of 8 U.S.C. § 1326.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Aceves-Lopez contends that: the district court erred in not adjusting his sentence for time he served in state custody; and his sentencing violated his Sixth Amendment right to have a jury find all factors used to enhance his sentence.

As part of his written plea, Aceves-Lopez waived his right to appeal his conviction and sentence. The district court's plea colloquy confirms that Aceves-Lopez knowingly and voluntarily waived the right to appeal. Accordingly, we enforce the appeal waiver. *See United States v. Bibler*, 495 F.3d 621, 624 (9th Cir. 2007). In addition, we reject Aceves-Lopez's contention that the appellate waiver was not valid because he received an illegal, or unlawful, sentence where the "sentence was authorized by the judgment of conviction, and did not impose on [the defendant] a sentence in excess of the statutory penalty." *United States v. Vences*, 169 F.3d 611, 613 (9th Cir. 1999).

**AFFIRMED.**